Supreme Court, U.S.
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No. _____

InThe
UNITED STATES SUPREME COURT
AMERICA

October Term, 2001

In re Eileen Vey

WRIT OF CERTIORARI (3RD)
Petition
Expedition of Case Requested
PRIMA FACIE STATE HABEAS CORPUS

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☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆

13pp

QUESTION PRESENTED

I.

IS THIS COURT GOING TO PUT AN END TO PETITONER'S KIDNAPPING UNDER GUISE OF A 17-YEAR STATE PRIMA FACIE HABEAS CORPUS.

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No. _____

In The
UNITED STATES SUPREME COURT
AMERICA

_____

October Term, 2001

_____

WRIT OF CERITORARI (3RD) PETITION
(OR ALTERNATIVE EXTRAORDINARY WRIT)
HABEAS CORPUS EXPEDITION REQUESTED

_____

☆☆

The petitioner, Eileen Vey ("Vey"), requests a Writ of Certiorari (3RD) in this state prima facie habeas corpus matter denied (the equivalent) and expedition of this **17-year case. The petitioner is kidnapped in a mentally torturous litigation sweatshop!**

ORDERS BELOW

After again submitting a petition for writ of habeas corpus, CV No. 01-1463, in the U.S. District Court for the Western District of Pennsylvania, on August 24, 2001, the Court sent petition (Appendix 2) to the Third Circuit for Application, where petition, In re: Eileen Vey, No. 01-3725, was denied on November 7, 2001 (10-18-01) (Appendix 1).

JURISDICTION

Jurisdiction is envoked under U.S. CONSTITUTION Article I § 9 (2) "The Privilege of Writ of Habeas Corpus shall not be suspended," Article III § 2 "The judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution," Rules 10, 13, 20.2, 28 USC §§ 2101, 2102 (in reality this case is listed as a state criminal case, but listed as civil in the federal court: inconsistant and petitioner is losing appropriate rights, speed,

etc.), 2104, 1651(a) and 28 USC § 2241-2254. **Please note that none of the above have been repealed, therefore still in effect.** We have a overwelming conflict

U.S. CONSTITUTIONAL & FEDERAL PROVISIONS

All the above and DUE PROCESS: The petitioner is being deprived of DUE PROCESS of the granting of the PRIMA FACIE HABEAS CORPUS. Article I § 9(2) Habeas Corpus, 28 USC §§ 2241-2254 (deprivations above, Amendments 1, 2, 4, 5, 6, 8, 9, 14, prima facie law; federal and state statutes and case law, obstruction of justice. etc.).

STATEMENT OF CASE

This 17-year state prima facie habeas corpus (13-year federal courts) is being continually denied under every imaginable way in conflict with all the above laws, particularly now under continued state PCRA, and even a STATE HABEAS CORPUS WAS REFUSED ACKNOWLEDGEMENT, when petition clearly pointed out the description of petition as being a habeas corpus, not a PCRA petition, and now a federal law in the federal courts insisting on an application, which deprives DUE PROCESS of a Habeas Corpus, which is against all the above laws that have never been repealed.

The prima facie state habeas corpus was submitted in the district court, where petition for habeas corpus was sent to the Third Circuit for "Application." While it was there, the petitioner made MOTION that the prima facie habeas corpus be granted there now, because she had recently submitted it under a mandamus/prohibition, which Third Circuit denied and said she should have submitted it under a habeas corpus. She attached this Third Circuit statement to the MOTION for granting prima facie habeas corpus. There was no response from opposition for petitioner's claims of prima facie habeas corpus. The Third Circuit denied "Application" and gave no relief for MOTION FOR HABEAS CORPUS, which Third Circuit did not entertain and appears they interpreted it as an "amendment to appllication"," and which conflictedwith all the above laws never repealed (See Jurisdiction and Provisions). In brief, Vey has repeatedly proved "reasonable doubt" and submittedd evidence showing "insufficient evidence" to even try her in case, yet no one gives her her rightful relief!

REASONS FOR GRANTING WRIT

The Third Circuit conflicted its own advise to petitioner to submit her valid prima facie habeas corpus as a habeas corpus petition (No. 00-4362), which she did (No. 01-3725); then after habeas corpus petition motion was there, the Third Circuit denied it under guise of an "Application." This meets requirment of Rule 10: (a) The Third Circuit has entered a decision that conflicts with its previous one; Third Circuit decided an important federal question which conflicts with U.S. Constitution and other laws (/see Jurisdiction and Provisions); Third Circuit has departed form its usual course of proceedings (refused to entertain motion for habeas corpus) that calls for this Court's supervisory power;

Rule 10 (b) The state court (trial level) would not even entertain the exercise of a state habeas corpus petition, but decided to "interpret" that petition as a PCRA petition, which requirements petitioner had previously met, but was still deprived relief.

Rule 10 (c) The Third Circuit decided an important federal question that has not and should be decided by this Court (re: "Applications violating due process);

Extraordinary Writ's Rule 20: Moreover, because for above reasons and for 17 years, petitioner can obtain relief from no other court (state habeas corpus petition not acknowledged, PCRA and Federal "procedures," which petitioner did meet, are being used as excuses to keep Vey from relief) Rule 20 requirements are also met in order for petitioner to qualify for relief here in this Court: Rule 20, "To justify the granting of any such writ, the petition must show that the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court."

PRIMA FACIE HABEAS CORPUS

The petitioner sees no reason to continuously submit the long long list, except the new evidence found past week, because most of it has been seen by this Court without any valid refutation supported by conflicting evidence to hers. She submitted evidence she has previously submitted that proved that had she committed any act, she was not guilty due to the laws of the state, which she was deprived. Then she submitted

evidence from the Coroner's Inquest Transcripts and the Trial Transcripts, which proved "reasonable doubt" and "insufficient evidence" that she was not on the bridge, the scene where alleged homocide was suppose to take place. Again, no valid evidence has been submitted to disclaim those of the aforementiond evidence. PRIMA FACIE HABEAS CORPUS.

Remember, as evidence of the above, petitioner previously submitted evidence of Transcripts and, as evidence of venue prejudice, a Marriage Licence copy of her marriage by a Court of Common Pleas Judge (husband's friend), where they had control of her case. Moreover, that there was a gang of men at bridge, alleged murder victim went down before shot was heard (silencer, hit?), two witnesses who said petitioner not at scene, another woman seen at time of bridge, bridge scene evidence contaminated, at the bridge there men all over the body, who never appeared in court, list goes on. Yet Vey **government won't help her!**

There is recent exculpatory evidence of "very reasonable doubt" that a gun weapon was taken from petitioner, but planted after arrest from the station wagon, the vehicle that carried couples belongings and gun. This "reasonable doubt" stems from the conflicting suspicious proceedings that occured and as follows: There was an admission by one police of another weapon planted after the arrest, which was never submitted in court as evidence! (no fingerprints?) Another police claims at arrest time there was only a gun weapon found on petitioner. The other police said he got a knife weapon AFTER the arrest, so why did not first police get this alleged weapon, if it existed? Therefore, since there was no knife, there was no gun. Moreover, the police disclaimed ever finding the couples' stationwagon, which gave them excuse of not having access to couples' belongings, namely the gun often carried in wagon (on the road). The police had a month to find a stationwagon on the North Side in re an alleged homocide, only blocks from the station, and CLAIMS THEY COULD NOT FIND IT? Impossible! The fact that no gun powder was found on petitioner's hands after a test supports this claim, as well as above.

PRIMA FACIE LAW

THE LAW concerning PRIMA FACIE: Courts use the concept of "prima facie" case in two senses: (1) in sense of plaintiff producing evidence sufficient to render reasonable a conclusion in favor of allegation she asserts; and (2) in sense that,

not only the plaintiff's evidence would reasonable allow conclusion plaintiff seeks, but also that plaintiff's evidence compels such a conclusion, if the defendants produce no evidence to rubut it, **Husbands v. Com of PA**, 395 FS 1107, 1139.

PRIMA FACIE EVIDENCE is evidence good and sufficient on its face and such evidence which, in the judgment of the law, is sufficient to establish a given fact. Moreover, prima facie evidence is evidence whch, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports. State v. Haremza, 213 Kan. 201, 512 P.2d.

CONCLUSICN

THEREFORE, the petitioner requests that the Court will immediately grant prima facie habeas corpus and order state court to drop all charges against her for insufficient evidence.

Respectfully submitted,

Eileen Vey, Pro Se 11-12-01

Appendix 1

October 18, 2001

UNITED STATES COURT OF APPEALS FOR THE 3RD

C.A. No. 01-3725

IN RE: EILEEN VEY
Petitioner

Present: NYGAARD, ROTH AND BARRY, CIRCUIT JUDGES

Submitted are:

(1) Petitioner's petition for writ of habeas corpus, which was docketed in the United States District Court for the Western District of Pennsylvania at 01-cv-01463 and transferred by the District Court to be treated as an application pursuant to 28 USC § 2244 to file a second or successive habeas corpus petition: and

(2) Petitioner's amendment to application in the above-captioned case.

Respectfully,
Clerk

MMW/SR

ORDER

The foregoing request for authorization to file a second or successive habeas corpus petition is enied because the petition's claims do not meet the criteria prscribed by 28 USC § 2244(b)(2) for issuing such authorization. In re Minark, 166 F3d 591 (3d Cir. 1999).

By the Court,

Dated: Nov 7 2001

Circuit Judge

Appendix 2

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EILEEN VEY, Petitoner	)	Civil Action No. 01-1463
vs.	)	Judge Donetta W. Ambrose/
	)	Magistrate Judge Sensenich
PA PAROLE BOARD DIRECTOR, Respondent	)	

MEMORANDUM ORDER

Petitioner's petition for writ of habeas corpus was received by Clerk of Court on August 3, 2001 and was referred to United States Magistrate Judge Ila Jeanne Sensenich for report and recommendation in accordance with the Magistrates Act, 28 USC § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed August 8, 2001, recommended that the petition for writ of habeas corpus be transfrrred to the United States Court of Appeals for the Third Circuit as an application to file a succussive petition pursuant to 28 USC § 2244(b)(3). The parties were allowed ten (10) days from the date of service to file objections. Service was made on petitioner at 804 Cedar Avenue, Pittsburgh, PA 15212-4812. Petitioner filed objections to the Report and Recommendation on August 14, 2001. After de novo review of the pleadings and documents in the case, together with the report and recommendation and petitioner's objections to report and recommndation, the following order is entered:

AND NOW, this 24th day of August, 2001;

IT IS HEREBY ORDERED that the petition for writ of habeas corpus is transferred to the United States Court of Appeals for the Third Circuit as an application to file a successive petition pursuant to 28 § 2244(b)(3).

The report and recommendation of Magistrate Judge Sensenich, dated August 8, 2001, is adopted as the opinion of the court.

Donnetta W. Ambrose
United States District Judge

cc: Ila Jeanne Sensenich
U.S. Magistrate Judge
Eileen Vey

Appendix 3

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 00-4362

IN RE: EILEEN VEY,

Petitioner

On Petition for a Writ of Mandamus

February 26, 2001

Before: CHIEF JUDGE, BECKER, WEIS AND GARTH,
CIRCUIT JUDGES

JUDGMENT

This cause came on to be heard on a petition for writ of mandamus and was submitted for decision under Rule 21, Fed. R. App. Pro. On consideration whereof, it is now hereby ORDERED AND ADJUDGED by this Court that the petition for writ of mandamus is denied. All of the above in accordance with the opinion of this Court.

ATTEST:
Marcia M. Waldron
Clerk

DATED: March 1, 2001

Appendix 4

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 00-4362

IN RE: EILEEN VEY,

Petitioner

On Petition for a Writ of Mandamus

February 26, 2001

Before: CHIEF JUDGE, BECKER, WEIS AND GARTH,
CIRCUIT JUDGES

(Filed March 1, 2001

JUDGMENT

PER CURIAM

On December 22, 2000, Eileen Vey filed the instant petition for a writ of mandamus. Vey requests that this Court direct Judge Bigley of the Allegheny County, Pennsylvania, Court of Common Pleas to dismiss charges that were brought against Vey over 15 years ago. Judge Bigley is apparently named in the petition because on March 29, 2000, he issued an order denying Vey's third Post-Conviction Relief Act ("PRCA") petition as untimely.

We lack jurisdiction to issue a writ of mandamus to a state court. See Demos v. United States Dist. Court, 925 F.2d 1160, 1161 (9th Cir. 1991). Moreover, regardless of how Vey has styled the instant petition, it is clear she is attempting to attack her 1985 convictions for third degree murder and carrying a firearm without

a license. Assuming Vey meets the "in custody" requirements she can attack the state convictions only by filing a habeas corpus petition under 28 U.S.C. § 2254. Based on a review of Court records, the District Court for the Western District of Pennsylvania has previously denied on the merits two habeas petitions from Vey. See W.D. Pa. Civ. No.90-cv-00035; W.D. Pa. Civ. No. 94-2004. Therefore, if Vey wishes to pursue yet another attack upon her 1985 convictions, she would need to follow the procedures set forth at 28 U.S.C. § 2244 (and Third Circuit L.A.R. 22.5) for filing a "second or successive" habeas petition.

For reasons stated herein, Vey's petition for a writ of mandamus will be denied.

TO THE CLERK:

Please file the foregoing opinion.